

## **HUD Earnest Money Forfeiture and Return Policy**

Should the sales transaction fail to close as scheduled, HUD may consider the earnest money deposit forfeited or may return all or a portion of the earnest money deposit.

### **Investor Buyer**

#### **Forfeiture of 50 Percent of the Earnest Money Deposit**

The Investor buyer forfeits 50 percent of the earnest money deposit when a transaction for an insurable property fails to close due to HUD or a Direct Endorsement (DE) Underwriter's determination that the Investor buyer is an unacceptable buyer.

#### **Forfeiture of Entire Earnest Money Deposit**

The Investor buyer forfeits 100 percent of the earnest money deposit in the following circumstances:

- when a transaction for an uninsurable property fails to close for any reason; or
- when a transaction for an insurable property fails to close for any reason other than HUD's or a DE Underwriter's determination that the buyer is an unacceptable buyer.

### **Owner-Occupant Buyers**

#### **Return of Entire Earnest Money Deposit**

HUD will return 100 percent of an owner-occupant buyer's earnest money deposit in the following circumstances:

- there has been a death in the immediate family (contract holder, spouse, or children living in the same household);
- there has been a recent serious illness in the immediate family that has resulted in significant medical expenses or substantial loss of income, thus adversely affecting the buyer's financial ability to close the sale;
- there has been a loss of job by one of the primary wage earners or substantial loss of income through no fault of the buyer;
- on an insured sale, HUD determines that the buyer is not an acceptable borrower;
- on an uninsured sale, the buyer was pre-approved for FHA-insured mortgage financing in an appropriate amount by a recognized mortgage lender but, despite good faith efforts, was ultimately unable to secure mortgage financing;
- HUD cancels the contract due to the presence of deteriorated lead-based paint and excessive stabilization plan costs; or
- other circumstances evidencing equally good cause, as determined by HUD.

In order to receive any part of the earnest money deposit, the owner-occupant buyer must submit documentation within the allotted time frame to HUD's Asset Manage (AM) evidencing the circumstances relating to the transaction's failure to close.

### **Forfeiture of 50 Percent of the Earnest Money Deposit**

The owner-occupant borrower forfeits 50 percent of the earnest money deposit when a transaction for an uninsurable property fails to close because the owner-occupant buyer was unable to secure non-FHA-insured mortgage financing from a recognized mortgage lender, despite good faith efforts.

In order to receive any part of the earnest money deposit, the owner-occupant buyer must submit documentation to the AM evidencing the circumstances relating to the transaction's failure to close.

### **Forfeiture of Entire Earnest Money Deposit**

The buyer forfeits 100 percent of the earnest money deposit in the following circumstances:

- the buyer does not submit documentation supporting their reason for the return of any part of the earnest money deposit within 30 Days, or such other time allowed by the AM in writing, following contract cancellation; or
- the buyer's submitted documentation fails to support an acceptable cause for the buyer's failure to close.

### **Vacant Lots**

Buyers of vacant lots will be considered investor buyers for the purpose of earnest money deposit disposition.

|                                    |                    |               |
|------------------------------------|--------------------|---------------|
| _____<br>Buyer Name                | _____<br>Signature | _____<br>Date |
| _____<br>Buyer Name                | _____<br>Signature | _____<br>Date |
| _____<br>Selling Agent/Broker Name | _____<br>Signature | _____<br>Date |